

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Joshua Rivera,

Case No. 18-cv-1322 (DSD/HB)

Plaintiff,

v.

REPORT AND RECOMMENDATION

Robert Wilkie, Acting Secretary of
Veterans Affairs; Kimberly Girard; and
Victoria Arnoldi,

Defendants.

In an order dated May 23, 2018, this Court denied Plaintiff Joshua Rivera's application to proceed *in forma pauperis* and ordered him to pay the \$400.00 filing fee within thirty days, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. (Order at 3 (citing Fed. R. Civ. P. 41(b)) [Doc. No. 5].) That deadline has now passed, and Rivera has not paid the filing fee in this matter. In fact, Rivera has not communicated with the Court about this case at all since commencing this action. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

Accordingly, based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: June 26, 2018

s/ Hildy Bowbeer

Hildy Bowbeer
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals. Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).